FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.6503 OF 2006

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.V.Shridharan with Mr.J.H.Motwani and Mr.Prakash Shah i/by PDS Legal for petitioner.
Mrs.Bharucha with Mr.H.P.Chaturvedi for res.Nos.1 to 3.

CORAM : H.L GOKHALE &
J.P.DEVADHAR, JJ.

DATED : 15th November 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith. The Petition seeks to challenge the order in original dated 28th July 2003 passed by respondent No.3-Joint Director General of Foreign Trade imposing a penalty of Rs.12,57,980/- and also the order in Appeal dated 17th May 2006 passed by the 2nd respondent -Additional Director General of

Foreign Trade dismissing the Appeal summarily on the alleged ground of the same being time barred. Mrs.Bharucha appearing for respondent Nos.1 to 3 does not dispute that the order in original was an ex-parte order. That being the position, the order in original as well as the appellate order will have to be set aside.

3. Mr.Shridharan appearing for the petitioner has placed on record the Appeal Memo filed to the Appellate Authority and therefrom has contended that the Appeal was in time which has erroneously been dismissed as being time barred.

4. This being the position, we set aside both these orders viz. order in original and the order in Appeal. The original proceeding will stand revived to the file of the Joint Director

General of Foreign Trade. Both the Counsel request that a date may be notified on which the petitioner will appear before the Authority concerned. In view of that request, the revived proceeding be notified before the officer concerned on Monday, 4th December 2006 for appropriate directions and thereafter the revived matter will be heard in due course by the officer concerned. All contentions of the petitioner on merits will be available to her as and when the revived matter is heard and decided.

5. Rule is made absolute in the aforesaid terms. No order as to costs.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)